

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

December 13, 2004

DIVISION FIVE

B177950 Cornelio Z. (Not for Publication)
v.
S.C.L.A.
Los Angeles County Department of Children and Family Services

The petition for extraordinary relief is denied. This opinion shall become final immediately upon filing. (Cal. Rules of Court, rule 24(d).)

Mosk, J.

We concur: Turner, P.J.
 Grignon, J.

B173704 Frank Figueroa, et al. (Not for Publication)
v.
Fire Insurance Exchange

The judgment is affirmed. Costs on appeal are awarded to Fire Insurance Exchange.

Grignon, Acting P.J.

We concur: Armstrong, J.
 Mosk, J.

DIVISION FIVE (Continued)

B173594 People (Not for Publication)
v.
Carl A. Jones

The corporal injury conviction is reduced to misdemeanor battery. Sentence on the burglary, battery, and false imprisonment convictions are ordered stayed pursuant to section 654. The conduct credits and parole revocation fine are ordered stricken. The clerk of the superior court is instructed to prepare an amended abstract of conviction reflecting these changes and to deliver a copy to the Department of Corrections. The judgment of conviction is affirmed in all other respects.

Armstrong, J.

I concur: Grignon, Acting P.J.
I concur: Mosk, J. (opinion)

B170740 People (Not for Publication)
v.
Leonard Smith

The two one-year prior prison term enhancements under section 667.5, subdivision (b) are stricken. The clerk of the superior court is ordered upon issuance of the remittitur to prepare a corrected abstract of judgment reflecting the striking of the section 667.5, subdivision (b) enhancements and to forward the corrected abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed.

Mosk, J.

I concur: Armstrong, J.
I concur & dissent: Grignon, Acting P.J. (opinion)

December 13, 2004 (Continued)

DIVISION SIX

B176104 People (Not for Publication)
v.
McDougal

The judgment (order of commitment) is affirmed.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

B169923 People (Not for Publication)
v.
Faulks

The judgment is modified to reflect that the sentence on count 2 for robbery is stayed pursuant to section 654. As modified, the judgment is affirmed. The sentence remains the same: six years state prison. Consistent with this opinion the trial court is directed to prepare an amended abstract of judgment and forward it to the Department of Corrections.

Yegan, Acting P.J.

I concur: Coffee, J.
I concur & dissent: Perren, J. (Opinion)

DIVISION SEVEN

B170979 People (Not for Publication)
v.
Guest

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.
Johnson, J.

DIVISION SEVEN (Continued)

B173910 Los Angeles County, D.C.S. (Not for Publication)
v.
Natasha B.,
In re Marques R.

The order terminating parental rights is reversed and the matter is remanded to the juvenile court with directions that within 10 days of the remittitur, pursuant to ICWA and rule 1439 of the California Rules of Court, the Department provide the appropriate Blackfoot tribe or tribes and the BIA with proper notice, which should include mother's and her paternal great-grandmother's maiden names and other pertinent information, of the pending proceedings and that the Department file proof of the receipt of such notice by the tribes, along with a copy of the notices and any responses, with the juvenile court. If, after notice is properly given, no tribe responds indicating Marques is an Indian child within the meaning of ICWA, the court shall reinstate the termination of parental rights orders. If a tribe determines Marques is an Indian child, the juvenile court shall vacate the detention and disposition orders and conduct the detention and disposition hearings applying the provisions of the ICWA, section 360.6 and rule 1439 of the California Rules of Court. In all other respects, the order terminating parental rights is affirmed.

Zelon, J.

We concur: Perluss, P.J.
 Woods, J.

B175411 Briley (Certified for Publication)
v.
S.C.L.A. (Hermosa Beach Police Department, r.p.i.)

Petitioners' request for a writ of mandate is granted. The Appellate Division of the Superior Court is ordered to vacate its order of May 3, 2004, and to grant the petition. The stay imposed by this court on May 28, 2004, is lifted. Each side to bear its own costs on appeal.

Zelon, J.

I concur: Johnson, Acting P.J.
I concur & dissent: Woods, J. (opinion)

December 13, 2004 (Continued)

DIVISION SEVEN (Continued)

B166718 People (Certified for Partial Publication)
v.
Overby

The judgment is affirmed.

Zelon, J.

I concur: Woods, J.

I concur & dissent: Johnson, Acting P.J. (opinion)

B175511 People (Not for Publication)
v.
Birotte

The judgment is affirmed.

Johnson, J.

We concur: Perluss, P.J.
Zelon, J.

B168012 People (Not for Publication)
v.
Fix

The judgment is reversed and the cause is remanded for proceedings consistent with this opinion.

Johnson, Acting P.J.

We concur: Woods, J.
Zelon, J.

December 13, 2004 (Continued)

DIVISION SEVEN (Continued)

B152731 People (Not for Publication)
v.
Griffin

The judgment is affirmed.

Johnson, J.

We concur: Perluss, P.J.
Zelon, J.

B170979 People (Not for Publication)
v.
Guest

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.
Johnson, J.

DIVISION EIGHT

B177358 Rudy F., Sr., et al. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles Department of Children and Family Services, r.p.i.)

The petitions for writs of mandate are denied on the merits. This opinion is final forthwith as to this court. (Cal. Rules of Court, rule 24(b)(3).)

Rubin, Acting P.J.

We concur: Boland, J.
Flier, J.

DIVISION EIGHT (Continued)

B169611 Nicole Azad (Not for Publication)

v.

Mill Creek Equestrian Center, Inc.

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.

Flier, J.

B170152 Simon Reyes Villatoro (Not for Publication)

v.

Maria Magdalena Ochoa

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.

Boland, J.

B170395 James D. Weatherly (Not for Publication)

v.

Universal Music Publishing Group

The judgment is reversed. The order sustaining without leave to amend UMPG's demurrer to the cause of action for breach of the implied covenant of good faith and fair dealing is reversed. The cause is remanded to the trial court. Weatherly is entitled to his costs on appeal.

Cooper, P.J.

We concur: Boland, J.

Flier, J.

December 13, 2004 (Continued)

DIVISION EIGHT (Continued)

B170887 People (Not for Publication)
v.
Jaiver Espinoza

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.